

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 19-23649-shl

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5 In the Matter of:

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7 PURDUE PHARMA L.P.,

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9 Debtor.

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11 United States Bankruptcy Court

12 300 Quarropas Street, Room 248

13 White Plains, NY 10601

14

15 July 26, 2022

16 11:10 AM

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21 B E F O R E :

22 HON SEAN H. LANE

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: JUSTIN WALKER

1 HEARING re Omnibus Hearing

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3 HEARING re Doc. #4970 Case Status Report

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25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

3 DAVIS POLK WARDWELL LLP

4 Attorney for Debtors

5 450 Lexington Avenue

6 New York, NY 10017

7

8 BY: MARSHALL SCOTT HUEBNER (TELEPHONICALLY)

9

10 AKIN GUMP STRAUSS HAUER FELD LLP

11 Attorney for The Official Committee of Unsecured

12 Creditors

13 One Bryant Park

14 New York, NY 10036

15

16 BY: ARIK PREIS (TELEPHONICALLY)

17

18 KRAMER LEVIN NAFTALIS FRANKEL LLP

19 Attorney for the Ad Hoc Committee of Governmental and

20 Other Contingent Litigation Claimants

21 1177 Avenue of the Americas

22 New York, NY 10036

23

24 BY: KENNETH H. ECKSTEIN (TELEPHONICALLY)

25

1 CAPLIN DRYSDALE, CHARTERED

2 Attorney for MSGE Group

3 One Thomas Circle, NW, Suite 1100

4 Washington, DC 20005

5

6 BY: KEVIN C. MACLAY (TELEPHONICALLY)

7

8 WHITE CASE LLP

9 Attorney for Ad Hoc Group of Individual Victims of

10 Purdue Pharma

11 1221 Avenue of the Americas

12 New York, NY 10020

13

14 BY: J. CHRISTOPHER SHORE (TELEPHONICALLY)

15

16 US ATTORNEY'S OFFICE

17 Attorney for the United States

18 86 Chambers Street, 3rd Floor

19 New York, NY 10007

20

21 BY: LAWRENCE FOGELMAN (TELEPHONICALLY)

22

23

24

25

1 OFFICE OF THE UNITED STATES TRUSTEE

2 Attorney for the U.S. Trustee

3 201 Varick Street, Room 1006

4 New York, NY 10014

5  
6 BY: PAUL KENAN SCHWARTZBERG (TELEPHONICALLY)

7  
8 SEWARD KISSEL LLP

9 Attorney for Ascent Pharmaceuticals, Inc.

10 One Battery Park Plaza

11 New York, NY 10004

12  
13 BY: CATHERINE V. LOTEMPIO (TELEPHONICALLY)

14  
15 DEBEVOISE PLIMPTON LLP

16 Attorney for Mortimer Sackler, Beacon Company

17 919 Third Avenue

18 New York, NY 10022

19  
20 BY: JASMINE BALL (TELEPHONICALLY)

1 JOSEPH HAGE AARONSON LLC

2 Attorney for Raymond Sackler Family

3 485 Lexington Avenue

4 New York, NY 10017

5  
6 BY: MARA LEVENTHAL (TELEPHONICALLY)

7  
8 KLEINBERG, KAPLAN, WOLFF & COHEN, P.C.

9 Attorney for State of Washington

10 500 Fifth Avenue

11 New York, NY 10110

12  
13 BY: MATTHEW J. GOLD (TELEPHONICALLY)

14  
15 LITE DEPALMA GREENBERG & AFANADOR

16 Attorney for Certain Canadian Municipality Creditors  
17 and Canadian First Nation Creditors

18 570 Broad Street, Suite 1201

19 Newark, NJ 07102

20  
21 BY: ALLEN J. UNDERWOOD (TELEPHONICALLY)

1 P R O C E E D I N G S

2 THE COURT: Good morning. This is Judge Sean  
3 Lane, in the United States Bankruptcy Court for the Southern  
4 District of New York, and we're here for an 11 o'clock  
5 hearing in the Purdue Pharma L.P. Chapter 11 case, Case  
6 Number 19-23649, and I'll just start with just a minor  
7 hiccup.

8 We got a couple calls in chambers from folks who  
9 were using the dial-in number, and there seems to have been  
10 some difficulty that a couple of people were having. So I  
11 waited a couple minutes to come out. We were giving them  
12 other information to get on using the Zoom link. So my  
13 apologies for anybody who's having any technical challenges  
14 here this morning. One of the joys of the COVID era.

15 So with that, I thought we would start as we  
16 always do with appearances, folks who want to make an  
17 appearance, starting with the Debtors.

18 MR. HUEBNER: Good morning, Your Honor. Can I be  
19 seen and heard clearly?

20 THE COURT: Yes. I can hear you just fine.

21 MR. HUEBNER: Okay. For record, Marshall Huebner,  
22 of Davis Polk & Wardwell, LLP on behalf of --

23 THE COURT: All right, and on behalf of the  
24 Official Committee of Unsecured Creditors?

25 MR. PREIS: Good morning, Your Honor. This is

1 Arik Preis, from Akin Gump Strauss Hauer Feld, on behalf of  
2 the Official Committee. Can you hear me?

3 THE COURT: I can hear you fine. I will say the  
4 line seems to be not ideal in terms of the audio I'm  
5 getting. I can hear people fine. But if that becomes -- if  
6 it degrades any further, we'll take a look and see where to  
7 go from here.

8 And let me find out who's here. I think there are  
9 three, if I understand correctly, there are a few ad hoc  
10 groups. Let me get appearances from those folks.

11 MR. ECKSTEIN: Good morning, Your Honor. This is  
12 Kenneth Eckstein, of Kramer Levin. Good to see you. I'm  
13 appearing on behalf of the Ad Hoc Committee of Governmental  
14 and Other Contingent Litigation Claimants in the case.

15 THE COURT: All right. Good morning. Other ad  
16 hoc groups?

17 MR. MACLAY: Good morning, Your Honor. This is  
18 Kevin MacLay, from Caplin & Drysdale. I represent the MSGE  
19 Group, a group of local governmental entities, which, like  
20 the AHC, is the other official governmental consent party  
21 under the prior claim. Thank you.

22 THE COURT: All right. Any other ad hoc groups?

23 MR. SHORE: Good morning, Your Honor. Chris  
24 Shore, from White & Case, on behalf of the Ad Hoc Group of  
25 Personal Injury Victims.



1 THE COURT: All right. Good morning. Any other  
2 ad hoc groups? All right. Then I'll segue from that to  
3 hear on behalf of the United States.

4 MR. FOGELMAN: Good morning, Your Honor. This is  
5 Larry Fogelman, from the U.S. Attorney's Office for the  
6 Southern District of New York, on behalf of the United  
7 States.

8 THE COURT: All right, and on behalf of the United  
9 States Trustee's office?

10 MR. SCHWARTZBERG: Good morning, Your Honor. Paul  
11 Schwartzberg.

12 THE COURT: All right. Good morning. And from  
13 Ascent Pharmaceuticals?

14 MS. LOTEMPPIO: Oh, good morning, Your Honor. This  
15 is Catherine LoTempio, from Seward & Kissel, on behalf of  
16 Ascent Pharmaceuticals.

17 THE COURT: All right, and on behalf of the  
18 Sackler Family?

19 MS. BALL: Good morning, Your Honor. Jasmine  
20 Ball, from Debevoise & Plimpton, for the Mortimer Sackler  
21 side of --

22 THE COURT: All right. Good morning. And there  
23 are a variety of other folks who are listed here. It's not  
24 entirely clear who may be listen only or who isn't. So I'll  
25 go partially down the list to see how it goes. On behalf of

1 the Beacon Company?

2 MS. BALL: Good morning, Your Honor. That would  
3 also be Debevoise & Plimpton, Jasmine Ball.

4 THE COURT: All right. And so --

5 MS. LEVENTHAL: And Your Honor, I'm sorry --

6 THE COURT: Go ahead.

7 MS. LEVENTHAL: This is Mara -- this is Mara  
8 Leventhal, from Joseph Hage Aaronson LLC, on behalf of the  
9 Raymond Sackler Family.

10 THE COURT: All right. Good morning. And so, at  
11 this point, let me ask who else needs to make an appearance  
12 this morning who has not yet done so.

13 MR. GOLD: Good morning, Your Honor. Matthew  
14 Gold, from Kleinberg, Kaplan, Wolff & Cohen. We represent  
15 the State of Washington. We are not here for the other  
16 members of the group of states, sometimes referred to as  
17 "The Nine" although we coordinate with them and report to  
18 them as to every hearing.

19 THE COURT: All right. Thank you very much.  
20 Anyone else who needs to make an appearance at this time?  
21 All right. Hearing no other parties, I understand --

22 MR. UNDERWOOD: Your Honor? I apologize.

23 THE COURT: I'm sorry. Go ahead.

24 MR. UNDERWOOD: If I may, this is Allen Underwood,  
25 from the firm of Lite DePalma Greenberg & Afanador, and I

1 represent Certain Canadian Municipalities and First Nations.

2 THE COURT: All right. Good morning. Good to  
3 have you.

4 MR. UNDERWOOD: Good morning. Thank you.

5 THE COURT: Any other parties who need to make an  
6 appearance at this time? All right. I'm not hearing  
7 anyone. That doesn't mean frankly that there isn't someone  
8 out there who may be having technical difficulties. If  
9 someone has not made an appearance and needs to, they can  
10 chime in as they get their technical issues resolved.

11 And in the meantime, I will turn it over to  
12 Debtors' counsel, Mr. Huebner, to -- we're here for a  
13 status, and I have copy of the agenda that's at Docket  
14 Number 4976.

15 And so, with that, let me turn it over to you to  
16 set the stage, Mr. Huebner.

17 MR. HUEBNER: Sure. So, Your Honor, good morning  
18 again and thank you for hearing us today. You know, I think  
19 it probably goes without saying that in a case of this  
20 enormous complexity that is approaching its third  
21 anniversary, one could easily speak really for virtually any  
22 length.

23 I actually plan to speak for under two minutes  
24 because to actually thoroughly give a complete history and  
25 explanation and get into the highways and the byways would

1 obviously be not only unusual but also would invite any of  
2 the other 50 parties on the call who have slightly different  
3 views on their particular cul-de-sac or their superhighways  
4 in which they're involved to likewise express  
5 (indiscernible) opening view of their sort of worldview of  
6 the case.

7 What we tried to do in the transfer, the status  
8 summary, was to provide an entirely factual and we believe  
9 entirely unobjectionable and unequivocally accurate view of  
10 where things stand and primarily to give the Court a sense  
11 of what still lies ahead, which matters are still open and  
12 live and will likely need to be resolved. And so in terms  
13 of the things that lie most of us think behind us, I really  
14 will only take a minute. And then obviously we'll be ready  
15 to answer questions of anyone (indiscernible) that the Court  
16 would find useful.

17 Your Honor, as I am guessing is probably well  
18 known to the Court and probably a good slice of the legal  
19 community in the country, where we are procedurally in the  
20 case is (indiscernible) September 15th, approaching three  
21 years ago, is that there is the plan that was confirmed by  
22 Judge Drain. That plan, I think it cannot (indiscernible)  
23 truly remarkable achievement.

24 The intercreditor disputes that it resolved, of  
25 which there were literally dozens, the things that it

1 avoided, including potentially five, ten, fifteen years of  
2 claim allowance, intercreditor fighting, you know,  
3 subordination issues, equitable (indiscernible) issues are  
4 legion, while the Sackler-facing settlements (indiscernible)  
5 I think probably, you know, make sense to many, yet  
6 virtually all of the press attention and the light, they're  
7 really only one part of the plan.

8 And the interstate allocation, the state municipal  
9 allocation, the public/private allocations and a variety  
10 issues of the federal government, large and small, including  
11 facing virtually every other constituency in the entire  
12 case, adult PI, pediatric PI, states (indiscernible) to the  
13 federal government often (indiscernible) entitlements to  
14 other people's recoveries including by settlement are all  
15 resolved.

16 As the Court knows, there were a small number of  
17 appellants. That number was cut by something like 60 or 70  
18 percent during the appeal process where an enhanced  
19 agreement was reached for which if we are ultimately cleared  
20 for takeoff by the Second Circuit, which we very much hope  
21 and are cautiously optimistic and hopeful that we will be,  
22 we will need to come back with an 1127 motion to formally  
23 incorporate the improvements into an amended plan.

24 There are all improvements -- in other words,  
25 there are \$898 million new dollars coming in, a number that

1 could be as high as \$1.398 billion and there are a variety  
2 of other improvements and covenants based on creditors. And  
3 so where we are now with the appeal, and I will not express  
4 views as to the merits, is that the U.S. Trustee's office,  
5 three primary pro se claimants, a couple of whom -- I think  
6 actually two of whom also are making filings on behalf of  
7 other members of their family -- so you can call them three  
8 pro se (indiscernible) a pro se technically can't advocate  
9 on behalf of others.

10 But to be fair, it's a family (indiscernible) so  
11 one individual pro se and two family pro se is another way  
12 one could think about it, then Mr. Underwood's clients, who  
13 constitute I believe five in total indigenous nations and  
14 towns in Canada. As we said in the status report, we have a  
15 contract settled with I think either all or all but one of  
16 the provinces in Canada. We covered them -- the entire  
17 populace of Canada obviously in a different direction.

18 So I don't know if (indiscernible) and I think the  
19 case transfer memo is clear on this, that sort of Canada  
20 writ large is objecting. Quite the contrary, we actually  
21 resolved the issues with Canada writ large a very long time  
22 ago and Mr. Underwood's clients obviously are who they are.

23 And so out of 618,000, I believe, filed claims and  
24 125,000 creditors, what we are essentially faced with is the  
25 federal government, with whom we have an economic settlement

1 which is actually one of the cornerstones of the plan which  
2 is extremely, extremely important, including government  
3 creditors, because it supports the globally shared vision of  
4 100 percent of the company's assets and every single dollar  
5 that was obtained by negotiation, litigation and settlement  
6 with the Sacklers go exclusively to abatement and victim  
7 compensation and the federal government economic settlement  
8 totally respects that and is in fact tremendously powerful  
9 in turning over \$1.75 billion of the \$2 billion  
10 superpriority status claim otherwise provided for through  
11 plan distributions for the states and others as long as the  
12 states get at least \$1.75 and the company emerges as a  
13 public benefit company (indiscernible).

14 Your Honor, one thing we did not put in the case  
15 status point, obviously because it would have been truly  
16 impossible to figure out exactly how to say in writing just  
17 how many hands crafted, shaped, created, listed this plan,  
18 some by coming in much earlier in the process, some by  
19 coming in prepetition, some by coming in one year into the  
20 case, some by coming in two years into the case, some coming  
21 in only during the appeal.

22 I don't believe that the document created a  
23 misimpression. But I want to be very clear. I'm moving  
24 into my fifth year on this case, and others for whom it's  
25 five or four or three or two. But everybody involved, the

1 amount of hard work has been really, really genuinely  
2 mindboggling. And we are where we are with something like  
3 11 ad hoc committees or groups, not all of whom appear  
4 today, and the UCC, all either supporting or not objecting  
5 to this plan, because there is a passionate belief shared by  
6 something like 99.9 percent of the people, entities and  
7 groups that have appeared in this case, that we know of no  
8 better outcome.

9 And while certainly one could dream of lots of  
10 things that could be angelic or perfect as a potential  
11 alternative, we live in the real world, and the real world  
12 is complicated and messy and people have lives. And this is  
13 not Lehman where we can spend 15 years and, you know, X  
14 billion dollars, you know, looking at these issues one by  
15 one. We actually have far more claimants than Lehman, far  
16 more claims than Lehman. Even discounting some  
17 multitrillion-dollar claims entirely, there are over \$40  
18 trillion of filed claims in this case, which dwarfs anything  
19 the U.S. bankruptcy system has ever seen before and will  
20 hopefully see again.

21 So I do -- I do want to be very clear, without  
22 naming individual committees and names and other things,  
23 every ad hoc committee is actually onboard with the plan,  
24 either as an active supporter of confirmation or as a non-  
25 objector. This was really not the Debtors' plan. I think



1 that's the UCC's maybe opening line. I don't remember  
2 exactly. I didn't go reread it. In one of their appellate  
3 briefs was this is not the Debtors' plan. It is the  
4 creditors' and victims' plan. And they are the ones who  
5 created it, crafted it, mediated it and met around in  
6 negotiation and ultimately brought to the level of fruition  
7 that we currently have. And so I do want to -- leave no  
8 doubt in anybody's mind that it goes without saying that the  
9 Debtors not only lived it every day (indiscernible).

10 One last thing, Your Honor, just because I do  
11 think it's important to note, you know, I have very long  
12 said this is something about which I feel rather  
13 passionately, that I am counsel to the fiduciary estate of  
14 these entities and that is our job. We are actually the  
15 owner of the most valuable claims against the Sacklers  
16 (indiscernible) we are the plaintiffs and they are the  
17 defendants with whom we have settled.

18 The integrity of the process was never subject to  
19 challenge from any party until during the case one person  
20 who had appeared earlier in the case as a professor, as an  
21 amicus and then later appeared with his (indiscernible)  
22 client, did question the integrity of the special committee  
23 process, albeit with no facts, on just very strong opinions.  
24 Judge Drain nonetheless reported an examiner who was utterly  
25 unknown to me, someone that I, among many others, had not

1 dealt with before and had no connection to.

2 So I want to make sure the Court is aware the  
3 examiner did a lot of work and issued a detailed report. I  
4 think it's fair to say he's given the special committee an  
5 A++ for integrity and utter independence and complete lack  
6 of connectivity to the Sacklers, leaving aside that the deal  
7 with the Sacklers at the mediation was an AHC represented by  
8 Mr. Eckstein, among others, the UCC, represented by Mr.  
9 Preis, among others, and the municipalities, represented by  
10 Mr. Maclay, among others and the special committee opposite  
11 the Sacklers.

12 The next round of mediation, 15 of the 24 formally  
13 pulled out opposing members of the "nonconsenting" state  
14 groups in a mediation under Judge Chapman came into an  
15 enhanced (indiscernible) leaving what Mr. Gold referred to  
16 as "The Nine," the eight states and the District of Columbia  
17 as the only states still outside the deal. And then during  
18 the appellate process, in another mediation by Judge Chapman  
19 in which the Debtors of course participated via the special  
20 committee, via Davis Polk, "The Nine" separately reached the  
21 final enhanced (indiscernible) that that committee is  
22 awaiting hopeful successful appeal and 1127.

23 So I do want to be clear because, you know, there  
24 is no crown higher than the crown of a good name, and if  
25 there's no integrity in the process, then its outcome is

1 almost a sideshow. I think there can be no possible  
2 question, nor is there one both before and since that one  
3 question that led to the special examiner being appointed,  
4 there was never a question from any party in this case about  
5 those issues that was not clarified through the special  
6 (indiscernible) I think we're long past.

7 So, Your Honor, that's actually all I do have to  
8 say. My understanding is that there a couple other  
9 constituencies who would like to say hi this morning  
10 (indiscernible) surprise.

11 Let me first pause because my first goal for  
12 today, there are no contested matters, which happily I may  
13 be surprised, it's going to be true of most of our omnibus  
14 (indiscernible) because we have worked day and night and  
15 night and day to settle everything that can be settled. And  
16 on the very first day of the case, we actually issued a  
17 clear clarion call on the record for people to just please  
18 call us if they have an issue, a question, a concern. Like  
19 things don't get done better if someone first files papers  
20 and then calls you. They get, in my view, much better and  
21 more cost effectively if people just call.

22 So it is not a coincidence or unusual that this  
23 omnibus hearing is utterly uncontested. Many of them  
24 actually have called (indiscernible) in a case that  
25 generates both the passion and the complexity and the

1 serious interest implicated by the Purdue Pharma affair. So  
2 with that, Your Honor, let me be of service in whatever way  
3 I can to the Court other than turning off both my microphone  
4 and my camera to allow others. But let me first see if  
5 there's anything else that I can be, as Debtors' counsel,  
6 can be of assistance at this conditional hearing.

7 THE COURT: All right. Thank you very much. So  
8 first, let me thank you for the case status report. As I  
9 think everyone on the phone knows, I'm inheriting this case  
10 from Judge Drain. I've been on the bench here in the  
11 Bankruptcy Court for just about 12 years, but have not been  
12 involved in this case up to this point.

13 And so the case status report, which is Docket  
14 4970, I took it in the spirit in which you identified it  
15 this morning, which is a factual recitation of issues that  
16 are relevant for the case going forward. And obviously it's  
17 not a pleading that's advocating a particular position on  
18 any particular motions or matters that may come in front of  
19 me going forward.

20 It was essentially just to get an idea of what the  
21 matters are. And so everybody reserves their rights and  
22 nothing that Mr. Huebner said this morning or that is set  
23 forth in the case status report is intended or I have taken  
24 to be as argument on any particular substantive matter. So  
25 just want to make that clear. But as a judge, I have to

1 start somewhere in terms of getting a good handle on the  
2 case. And so it is a very helpful document to give me to  
3 sort of issue spot, as they used to say in law school, of  
4 the things that are on the horizon in the case.

5 So let me -- again, I appreciate that document  
6 which is obviously available to anybody in the public who's  
7 interested. I have a couple of questions, one of which I  
8 think I know the answer to. So I'll start with that one  
9 first. As to the Second Circuit, my experience both on the  
10 bench and in a prior life is that we don't have any sense of  
11 the timing as to when that decision will come down. I  
12 assume that that's the case.

13 MR. HUEBNER: It is, Your Honor. The Second  
14 Circuit accepted the appeal on a highly expedited schedule.  
15 Both the briefing schedule and the (indiscernible) issue,  
16 which they resolved, basically immediately and so it was  
17 certainly accepted as something that was very time-  
18 sensitive. That said, there have been expedited appeals  
19 before in which people waited, you know, four weeks and  
20 appeals where people waited 12 months for resolution. We  
21 just don't know and we certainly have no indication --

22 THE COURT: No. That's fair. That's fair, and  
23 that's my experience as well. It will be -- the decision  
24 will be issued when the decision is issued. So my next  
25 question I think actually it does have an answer, and some

1 of it is the strains of an answer sort of set forth in the  
2 case status report. But I thought it would be helpful if  
3 you would discuss, as we wait, what are the things that will  
4 need attention as we wait for the Second Circuit decision.  
5 And you've already sort of given a preview as to when we get  
6 the decision, what you hope to be able to file. But there's  
7 probably too many -- too many potential paths that may come  
8 up after decision to plot those out.

9 So my question I guess is much more a cabin off,  
10 which is as we wait, what do you anticipate for the next  
11 three to six months of being on the horizon.

12 MR. HUEBNER: Sure. Your Honor, one of the  
13 attributes of the case that obviously was very controversial  
14 I think in the very beginning but became much less  
15 controversial and has been in fact I think not really  
16 controverted at all for over two years is the injunction and  
17 self-injunction. In a normal case where only the debtor is  
18 at issue, all litigation, with very few exceptions, is  
19 automatically stopped as a matter of law by the automatic  
20 stay.

21 Here obviously because there are shareholder co-  
22 defendants, which we know are currently pursuant to the  
23 negotiated settlements contributing or settling and paying  
24 \$5.5 to \$6 billion in connection with all this. We believe  
25 that unless a case was created in which the thousands of

1 lawsuits, of which dozens were being filed daily in the  
2 weeks before the petition date were all frozen, there could  
3 be no claim field on which to try to resolve the case.

4 So that litigation began contested but actually  
5 became uncontested within a couple of months into the case  
6 with the exception of one set of I believe it was either  
7 Tennessee or Kentucky counties who appealed. And they did  
8 not prevail on appeal. And Judge (indiscernible) I think  
9 very strongly upheld the injunction.

10 The status of that injunction, which I think as  
11 the case status report lays out, is that it has been  
12 contested for the last three or four claims which obviously  
13 spans many months and we've all been working towards these  
14 common goals. The status of that injunction currently is  
15 that the order entered by Judge Drain most recently extends  
16 it to 30 days after the Second Circuit rules. So whichever  
17 way they rule, all parties must (indiscernible) meaningful  
18 conversation and then, you know, decide what we believe is  
19 right and either litigate or file consensual papers as seems  
20 appropriate.

21 There is that safety valve in there that if the  
22 Second Circuit has not ruled by July 15th, a party is  
23 permitted to make a motion seeking to terminate or shorten  
24 the injunction. You know, without obviously getting into  
25 any privileged settlement conversations, you know, a couple

1 people said, look, what if they don't rule for a year. What  
2 if we're just sitting here forever and ever and ever? There  
3 just can't be a forever injunction. At some point we need  
4 to be able to say due to lack of a ruling (indiscernible) so  
5 there is that safety valve.

6 My hope and expectation is that no party would  
7 seek to avail themselves of that until (indiscernible) today  
8 given that a decision could come down this afternoon or next  
9 week or the week after that would hopefully allow us to  
10 bring to fruition something that has taken four years to  
11 build and obviously a staggering amount of professional fees  
12 and dozens of parties, to shatter it on what might be the  
13 half-yard line and beginning thousands of individual  
14 litigations, each of which separately seeking to jump the  
15 queue, including, and most importantly maybe from our  
16 perspective, in competition with the estate's own claims.

17 I want to make sure that is just crystal clear,  
18 which is the estate, as a matter of law, owns the fraudulent  
19 transfer claims, the veil piercing claims, the alter ego  
20 claims and potentially many, many other categories of  
21 claims. And, you know, one of the tragedies that this plan  
22 avoided is the estate litigating for years as a competitor  
23 with its own stakeholders as they litigate for years as  
24 competitors with one another.

25 And so issue number one, and I'll leave it at that



1 for right now, is there is a theoretical possibility that  
2 the extraordinary self-injunction and injunction -- because  
3 when we asked for relief, Your Honor, we also asked for  
4 something that's never been done before to our knowledge,  
5 which was an injunction on the Debtors themselves to ensure  
6 that their conduct would be beyond sort of pure during the  
7 bankruptcy case in terms of the operations and the alleged  
8 conduct that led to us being here in the first place.

9 Judge Drain said at that hearing, you know, that  
10 all sounds sensible. But shouldn't we also have a monitor  
11 to be an external validation source to be comfortable that  
12 your conduct as a pharma company selling narcotics remains  
13 currently above reproach. And the monitors of course can  
14 speak for themselves. But I think they all I think clearly  
15 indicate good faith compliance and more and better in  
16 connection with these issues.

17 So issue number one, Your Honor, which I hope is a  
18 very remote incidence, is that someone decides, you know,  
19 I'm done waiting. I want to throw off the injunction and  
20 thus probably the whole case so I can personally begin  
21 litigating against the Sacklers myself again. That's sort  
22 of number one.

23 There are a variety of issues in the list of  
24 actual matters. For example, Your Honor, there was a  
25 (indiscernible) from Ascent Pharmaceuticals matter on for

1 today. Without going into detail, there is a dispute about  
2 whether a contract has been terminated and rights waived or  
3 not and (indiscernible) I would call that a discrete dispute  
4 with a counterparty. And obviously if that is not settled,  
5 that will have to be resolved by the Court.

6 There are insurance issues that are proceeding in  
7 adversary proceedings that I actually know the least about  
8 except to say that in general the Debtors and various other  
9 creditor groups including two who currently have pro  
10 standing believe that we have very, very valuable insurance  
11 rights and that that will be material to recovery in the  
12 case. I think it's fair to say that there are insurance  
13 companies who believe that they have either little or no  
14 obligation to pay many of these claims, and that is an issue  
15 that we've had several hearings on and is proceeding.

16 There are also late claims that continue to be  
17 filed. I think in sort of broad brushstrokes, I think that  
18 it's fair to say that until now (indiscernible) with the  
19 transition, Your Honor, from Judge Drain to you, it has much  
20 more to do with the fact that we just hit the two-year  
21 anniversary of the bar date, which, you know, while time is  
22 sort of arbitrary, it's just (indiscernible) motion used as  
23 a measure of our existence. It is two full years and that  
24 is not trivial.

25 I mean, so I think the best way to describe it is

1 that the Debtors and the UCC have taken a very thoughtful  
2 and I think very pro-Claimant approach so far. And as each  
3 late claim has come in, frankly, you know, time and  
4 unfortunately committee fees that may well substantially  
5 exceed the ultimate recovery for the claimant have been  
6 spent gathering further data and in many cases asking Judge  
7 Drain to allow the late claim, it's allowed conditionally.  
8 But we believe that the factors have been satisfied.

9 But it is also true, and Judge Drain himself has  
10 said from the bench there comes a point after which you just  
11 can't keep, you know, again and again and again spending the  
12 resources which come at the expense of all of the other  
13 victims who timely filed claims to be drained looking at  
14 claims that are this far out from the bar date.

15 And so I think there will be I'm sure further late  
16 claims because many people on the victim and creditor side  
17 of the case are in unthinkable life circumstances, you know,  
18 either suffering terribly from opioid use disorder, having  
19 had their personal, financial, medical, mental lives  
20 trammled or destroyed in part by products that may have  
21 been sold by Purdue.

22 Maybe there are many claims coming from  
23 incarcerated individuals who often say they have no access  
24 to the information in the media and only recently learned of  
25 it. And so I think there will continue to be because then

1       there are hundreds of thousands for sure and potentially  
2       millions of potential creditors (indiscernible) we may be  
3       taking a slightly different tact going forward because,  
4       again, it's money coming out of defendants to analyze and  
5       potentially validate a late claim of other claimants. So  
6       it's not costless and it is coming out of the  
7       (indiscernible) victims.

8               There are a couple other things that are listed in  
9       the case status report. But I think that it has been  
10      happily a very, very quiet six, seven, eight weeks in Purdue  
11      on all counts. I've had virtually no conversations with  
12      Purdue's many constituencies, which is a dramatic contrast  
13      to the four-plus years that precedes it with usually, you  
14      know, 10, 12, 14 hours virtually every day. I think the  
15      hope, including to keep the expenses way, way down at  
16      present is that there should be little to nothing going on  
17      until the Second Circuit rules except in a couple of  
18      discrete areas like the Ascent dispute which is a highly  
19      specific two-party dispute about a contract.

20             I will ask my Davis Polk colleagues in the first  
21      instance, it is certainly more than possible that I have  
22      omitted something that should have been the first, you know,  
23      item on the list here. And so if one of my colleagues  
24      believes I have left out something that is directly  
25      important and responsive, I would ask that they jump in and

1 say, hey, you forgot this really important thing.

2 But given that I believe that the UCC and the AHC  
3 at a minimum intended to say hi, and maybe a longer hi than  
4 just hi, I'm also assuming since I have not (indiscernible)  
5 correct or supplement what I thought (indiscernible) someone  
6 may assist me if I have left something out that would be  
7 responsive.

8 THE COURT: All right. Anything else from the  
9 folks at Davis Polk? All right. I take that as  
10 confirmation that you've covered what needed to be covered.  
11 Thank you very much for your remarks. And with that, I will  
12 turn it over to the UCC to be heard.

13 MR. PREIS: Good morning, Your Honor. This is  
14 Arik Preis. Can you hear me?

15 THE COURT: I can hear you just fine. Thank you.

16 MR. PREIS: Just again, for the record, Arik  
17 Preis, from Akin Gump Strauss Hauer Feld, on behalf of the  
18 Official Creditors Committee. If Your Honor's okay, I don't  
19 intend on taking any more than a couple of minutes.

20 First, I'd like to introduce the members of the  
21 Creditors Committee. The UCC currently consists of eight  
22 members, a mother who has actually lost two children to  
23 opioid overdose, another mother who has a child born with  
24 neonatal abstinence syndrome, a grandfather whose grandchild  
25 was born with neonatal abstinence syndrome, a hospital

1 system, a third-party payer, a trade creditor, a co-  
2 defendant with potential claims and the PDGC.

3 Second, the UCC has taken its fiduciary duty to  
4 all unsecured creditors in this case very seriously. To  
5 that end, I just want to note three things. First, we have  
6 three ex officio members, a county in Texas, a public school  
7 district, the Thornton Township School District, and two  
8 Native American tribes.

9 Second, we're in constant communication with the  
10 Debtors as well as, as Mr. Huebner noted, the 11 or so other  
11 ad hoc groups that have formed in the case as well as other  
12 parties that have appeared in the case, including the DOJ,  
13 the U.S. Trustee, the NAACP and others. Third, we've tried  
14 to do most of our work behind the scene, and we've been very  
15 active. We believe the record in the case kind of speaks  
16 for itself, and we will continue in that regard.

17 Third, when this case started, we told Judge Drain  
18 we have three goals: first, to maximize value for all  
19 unsecured creditors and claimants, and you heard Mr. Huebner  
20 talk about the settlement with the Sacklers as well as the  
21 value of Purdue's claimants; second, to determine a fair  
22 allocation of that value, that, as Mr. Huebner noted, that  
23 took close to a year of mediation; and third, to focus on  
24 the public health aspect of this case.

25 The case status report explains what has happened

1 with these goals. One of the items that Mr. Huebner  
2 mentioned that is still ongoing is the insurance adversary  
3 proceeding. I know Mr. Huebner said he knows the least  
4 about it. I think Reed Smith has been the Debtors' counsel  
5 involved in that, and as he correctly pointed out, it is  
6 being handled on a three co-plaintiff basis by the AHC, the  
7 UCC and the Debtors. And I do believe there will be -- if  
8 we wait for the Second Circuit for a while, there will be  
9 items regarding the insurance adversary that may come into  
10 (indiscernible) that may.

11 Finally, let me end with this. Every day in  
12 America, the number of people who die from opioid overdose  
13 is akin to the number of people who die in a large plane  
14 crash, and the number who suffer from opioid use disorder is  
15 multiples of that, and of course the number of people who  
16 are affected by the opioid crisis, whether it be family,  
17 relatives, friends, acquaintances, loved ones, coworkers,  
18 colleagues, teammates, classmates, et cetera, is many, many  
19 multiples of that. This has led to a significant emotional  
20 and, as importantly, financial burden on our country. It is  
21 a national crisis and it's likely the worst manmade epidemic  
22 of our lifetime.

23 The plan provides significant funds in respect of  
24 the economic needs of abatement and victim compensation  
25 (indiscernible) it provides for a document repository to be

1 created with millions of pages for learning, education,  
2 research and future litigation and that document repository  
3 board includes claimants from across the claimant  
4 constituency. It includes a business injunction, as Mr.  
5 Huebner mentioned, that will continue. It includes the  
6 continuation of the monitor and a new entity, I'm sure  
7 (indiscernible) will mention, dedicated to the public good.

8 The process has been also somewhat cathartic for  
9 some victims, allowing them the chance to make claims, have  
10 their voices heard and significantly, for many of them, to  
11 confront the Sacklers on Zoom four months ago. And as Mr.  
12 Huebner pointed out, some incarcerated claimants continue to  
13 make claims. But we sincerely hope that this case can come  
14 to a close soon so that the benefits of the plan can start  
15 to be received.

16 With that, Your Honor, as I mentioned, I mentioned  
17 a few things that Mr. Huebner mentioned as far as things  
18 that are continuing, with regard to the insurance adversary  
19 and the late-filed claims. But other than that, I have  
20 nothing to add to what Mr. Huebner (indiscernible) --

21 THE COURT: All right. Thank you very much for  
22 your remarks. And now seems to be an appropriate time as  
23 any to just weigh in and express my sympathies to the folks  
24 on your committee and the folks that they represent in terms  
25 of victims of the opioid crisis, which has obviously been



1 the subject of extended conversation and remarks over the  
2 course of this case.

3 But as someone new to the case, I wanted to add  
4 that, my views as well. So again, today is a status  
5 conference, and I appreciate everybody's thoughts in terms  
6 of trying to give me a preview of where we're going and  
7 where we've been.

8 So let me ask who else wishes to be heard in  
9 connection with the status.

10 MR. ECKSTEIN: Your Honor, good morning. This is  
11 Kenneth Eckstein, of Kramer Levin Naftalis & Frankel. If it  
12 would be useful to Your Honor, I'm happy to briefly describe  
13 the role that the Ad Hoc Committee of Governmental and Other  
14 Contingent Litigation Claimants played. I'm mindful that  
15 there are many groups in the case, and I don't want to  
16 belabor. But if Your Honor would like, I can -- I can give  
17 you a brief context.

18 THE COURT: I'd say brief remarks would be fine.

19 MR. ECKSTEIN: Thank you, Your Honor. Your Honor,  
20 the Ad Hoc Committee of Governmental and Other Contingent  
21 Litigation Claimants, which you'll often hear referred to as  
22 the AHC, has played a very active role throughout the case.  
23 The Ad Hoc Committee consists of ten states. That would be  
24 Florida, Georgia, Louisiana, Michigan, Mississippi, New  
25 Mexico, Ohio, Tennessee, Texas and Utah.

1           It also includes the court-appointed Plaintiffs'  
2   Executive Committee, or the PEC, in the multidistrict  
3   litigation that's pending in the Northern District of Ohio  
4   before District Judge Polster, and that includes thousands  
5   of cities, counties and tribes, as well as other litigants,  
6   who are actively involved in the opioid litigation prior to  
7   the commencement of the bankruptcy case. There are also six  
8   political subdivisions of states on our committee and one  
9   federally recognized American Indian tribe.

10           Your Honor, members of the Ad Hoc Committee filed  
11   complaints (indiscernible) petition against both the Debtors  
12   and members of the Sackler family seeking billions of  
13   dollars in damages, asserting claims of fraud, negligence,  
14   per se consumer protection and racketeering statute  
15   violations and other violations of state statutes.

16           The members of the Ad Hoc Committee agreed to a  
17   prepetition settlement framework with the Debtors and the  
18   Sacklers which had the support of 23 states, five  
19   territories and countless cities, counties, municipalities  
20   and tribes. The settlement framework was designed to  
21   facilitate the contribution of billions of dollars towards  
22   abating the public health crisis caused by the opioid  
23   epidemic and was designed to try to avoid years of costly  
24   and protracted litigation.

25           The Debtors agreed to recognize the role of the Ad

1 Hoc Committee as a negotiating body that would help shepherd  
2 the settlement framework through bankruptcy and to garner  
3 the broadest possible additional outreach to other  
4 creditors, the parties determined that it was essential that  
5 the contemplated Ad Hoc group comprise both the negotiating  
6 states and non-state governmental claimants whose interests  
7 are not always aligned in the case.

8 Additionally, in light of the policy of the United  
9 States Trustee that governmental entities cannot serve on  
10 official creditors committees, as part of the settlement  
11 structure, the Debtor agreed to reimburse the costs and fees  
12 of the Ad Hoc Committee's professionals and Judge Drain  
13 entered an order in December 2019 approving that arrangement  
14 and recognizing the status of the AHC in the case, and that  
15 order is at Docket Number 394.

16 The Ad Hoc Committee has played an active role  
17 throughout the Chapter 11 case. The committee determined  
18 early on that the best use of assets under the plan was to  
19 fund abatement programs, a very unusual and precedent-  
20 setting approach to Chapter 11. With this goal in mind, we  
21 worked with the Debtors and the other major creditor groups  
22 throughout the case to help facilitate the restructuring,  
23 improve the terms of the deal with the Sacklers and obtain  
24 confirmation of a plan pursuant to which substantially all  
25 proceeds would be dedicated to abating the opioid crisis.

1 In addition, the Ad Hoc Committee was actively  
2 involved in three separate successful mediation processes:  
3 first, a six-month-long mediation over the allocation of  
4 value among creditors which successful resulted in an  
5 agreement on the allocation of value between public and  
6 private creditors as well as among public creditors  
7 themselves; two subsequent negotiations with the Sacklers,  
8 the Debtors and other parties in interest to enhance the  
9 terms of the Sacklers' contribution; and, as you've heard,  
10 the establishment of a document repository to facilitate  
11 transparency for the public's benefit.

12 The AHC was active at plan confirmation. We  
13 propounded testimony from five witnesses that Judge Drain  
14 relied on in confirming the plan and submitted substantial  
15 briefing in support of the plan. The Ad Hoc Committee has  
16 also been an active participant in the appeals of the  
17 confirmation order and related litigation, including various  
18 stay motions and the direct appeal motions. We have  
19 submitted briefs and participated in oral argument in  
20 support of the plan, both before the district court and the  
21 Second Circuit.

22 Your Honor, the opioid crisis, as you've heard, is  
23 a significant and intractable public health emergency, one  
24 that the members of the Ad Hoc Committee have been working  
25 diligently to address for numerous years. The Ad Hoc

1 Committee remains hopeful that the Second Circuit will  
2 promptly reverse Judge McMahon's decision and permit the  
3 plan to go effective. The plan represents, in our view, a  
4 global resolution of many disparate issues and we believe it  
5 represents the best chance to maximize value for all  
6 stakeholders and address this national health crisis in an  
7 extremely constructive and positive manner.

8 Your Honor, we concur with the characterizations  
9 of where the case currently stands. But I wanted Your Honor  
10 to have an appreciation of the role that our group has  
11 played and continues to play in the case. I'm happy to  
12 respond to any questions.

13 THE COURT: All right. Thank you very much for  
14 your comments. Is there any other party that would like to  
15 briefly be heard as to status?

16 MR. MACLAY: Your Honor, this is Kevin Maclay, for  
17 the MSGE group.

18 THE COURT: All right.

19 MR. MACLAY: Okay. Your Honor, much of what I  
20 would say would mirror what Mr. Eckstein has said on behalf  
21 of the AHC group.

22 As did the AHC group, the MSGE group has  
23 participated in all three mediations, is a term sheet party,  
24 has various consent rights as one of the two governmental  
25 consent parties under the plan and, of course, is hopeful,

1 as is the AHC, that the bankruptcy plan will be allowed to  
2 move forward given its important focus on abatement and the  
3 fact, of course, that hundreds of lives are being lost every  
4 day, as Mr. Preis pointed out, and we would be hopeful that  
5 this plan would help alleviate some of those harms.

6 So in terms of the plan status, I think, Your  
7 Honor, a lot of it is, as Mr. Huebner put it, a bit of wait  
8 and see to see what happens at the Second Circuit level. In  
9 terms of things that need to be done between now and then, I  
10 think Mr. Preis put forward quite eloquently what could  
11 arise between now and the potential remand. And other than  
12 that, Your Honor, we're all kind of waiting to see, you  
13 know, when the other shoe will drop.

14 So if Your Honor has any questions, I'm obviously  
15 here to answer them. My group, by the way, the MSGE group  
16 is comprised of approximately 1,300 cities, counties, tribal  
17 nations, hospital districts, Independent school districts  
18 and other local governmental entities across 37 states,  
19 representing somewhere in excess of 16 million individuals,  
20 and we are of course, you know, very, very invested in this  
21 process and hopeful of a relatively quick resolution to it.

22 THE COURT: All right. Thank you very much.  
23 Anyone else who wishes to briefly be heard as to status?  
24 All right. Hearing no further comments, let me thank  
25 everybody for their comments here this morning. I

1 appreciate, as I said, the case status report as well as the  
2 comments of folks. I also appreciate all the hard work that  
3 has gone into this case to this point. It's an  
4 understatement, given how hard folks have worked to try to  
5 achieve an appropriate result in a difficult case like this.

6 I do want to make sure to say that I recognize  
7 that whatever decision comes down, whatever that decision  
8 is, that it will create a lot of strong feelings by a lot of  
9 parties. And what I -- my intent is, and I just want to  
10 make it clear, is to hold a status conference shortly after  
11 the decision comes down so that we can discuss the  
12 appropriate path forward.

13 And I mention that just so that people will  
14 understand that they have a forum in which to have that  
15 discussion. And so don't feel pressure to file some motion  
16 or sets of motions, excuse me, or pleadings on the immediate  
17 heels of a decision. I will make sure to hear from everyone  
18 as to where we go from here after the Second Circuit rules.

19 But we want to do that in an orderly, cohesive  
20 process so that we can hear from everyone but try to do it  
21 in an efficient way. And so I would think that a status  
22 conference is the best way to do that. And so I wanted to  
23 just get that message out here today. It seemed an  
24 appropriate message to convey, consistent with the themes of  
25 the morning.

1           And so I know that there have been discussion with  
2           my chambers about upcoming hearing dates. I know we have a  
3           hearing date, the next one is August 17th. I also know that  
4           there have been discussions with Ms. Ebanks in my chambers  
5           about picking a hearing date for September, October,  
6           November, December, just going forward. And obviously we'll  
7           get you dates that will be omnibus dates.

8           But in addition obviously, we'll set whatever  
9           dates need to be set to deal with whatever developing  
10          situations occur. And again, I just say this so that folks  
11          don't feel an undue pressure to file something immediately  
12          so as to get the matter before me. Again, if there's a  
13          decision, my intent is to have a status conference and then  
14          we can figure things out. So that would seem to address  
15          scheduling.

16          And so, with that, I'll go back to you, Mr.  
17          Huebner, as to anything else that we need to address here  
18          this morning.

19                 MR. HUEBNER: Your Honor, just very, very quickly.  
20          Number one, the comment about the FMF, the ruling is  
21          appreciated. The reason that I think everybody here agreed  
22          or chose not to object to the T-plus-30 days either way was  
23          in fact to give us time to caucus. This will obviously be  
24          enormously complicated no matter what the ruling is and  
25          there are also multiple permutations what the ruling might



1 say. And I don't think anybody should know what they want  
2 to do until a week or two or three after the ruling comes  
3 out, unless it's obviously extremely one direction or  
4 another. And obviously with that said, we stand ready, as  
5 we always do, to caucus with anybody and everybody in the  
6 aftermath of the ruling.

7 The final thing I would say, Your Honor,  
8 hearkening back to a topic that I addressed briefly in the  
9 opening, I take it so for granted that it just didn't even  
10 occur to me to mention it. But I think it is worth to  
11 mention just because there have been misperceptions and they  
12 are reporting (indiscernible) the last Sackler last attended  
13 a board meeting in 2018. I think technically, you know, a  
14 final letter arrived I think on January 9, 2019 formalizing  
15 the final resignation that had already happened.

16 And so I do want there to be no possible mistake.  
17 It's not only that the special committee was given an A++ by  
18 the examiner. The Sacklers have had no role of any kind in  
19 the governance, the management, the direction, anything  
20 except as frankly a counterparty and a stakeholder and, in  
21 the minds of many, a defendant and now a  
22 contributor/settlement party under the plan.

23 So again it probably does not need to be said.  
24 But since it's in the landscape for three years, for many of  
25 us four years, I did want to be clear lest there be any

1 possible confusion. It's not that there's a special  
2 committee that's independent. But the board itself or other  
3 role that the company involved the Sacklers. The Sacklers  
4 have left the building in toto in 2019. This is why I began  
5 correctly by saying certainly as to my role, I view myself  
6 as counsel for the fiduciary Chapter 11 estate, most  
7 assuredly not to the shareholder (indiscernible) back in  
8 time, Purdue entities (indiscernible) --

9 THE COURT: All right. I appreciate that comment.  
10 It's consistent with sort of this morning's theme of level-  
11 setting going forward.

12 MR. HUEBNER: Yeah. Yeah, and I have nothing  
13 else, Your Honor, except to thank the Court for its time and  
14 to hope that everybody stays healthy and well in these  
15 challenging times. And we will see the Court in August.

16 THE COURT: All right. And let me just -- in  
17 light of your comments about timeframe and people may not  
18 know what they think a week after the ruling, two weeks,  
19 three weeks.

20 My intent would be to have a status conference  
21 within a couple of days of the ruling, not before people get  
22 a chance to read it and digest it within their offices and  
23 talking to their clients and stakeholders. So it wouldn't  
24 be the next day. I think that would be too soon. But it  
25 would be within a week of any ruling. And that may be just

1 the start of a conversation, right?

2 So it may be that we need more than one status  
3 conference to have an ongoing conversation to figure out  
4 next steps. We'll all -- as I think you correctly said,  
5 there's too many possible permutations of what a ruling  
6 could be to gameplan and figure out appropriate responses  
7 and positions by any party, much less all of the parties who  
8 are involved in this case.

9 So I just want to give people sort of an  
10 understanding of the timeframe. So I would think three or  
11 four business days would be something that I would  
12 contemplate. And again, it may be the start of a  
13 conversation where we may need to have more than one  
14 conversation. But we'll figure it all out in the fulness of  
15 time.

16 But just so that people don't expect something the  
17 next day. I think that's probably too soon to digest  
18 whatever ruling they say because I think the one thing  
19 everyone can agree upon is that the ruling on appeal is very  
20 complicated. These issues are extraordinarily complicated.  
21 And so no ruling from the Second Circuit is going to be a  
22 simple matter.

23 And so, with that, we'll get there and we'll  
24 figure this out as we move forward. And again, I appreciate  
25 everybody's thoughts today. I look forward to seeing all of

1 you in the future and working on the case to try to achieve  
2 the best result possible, whatever that looks like  
3 consistent with applicable law.

4 So on that note, I believe we've finished the  
5 business for which our hearing was conveyed, and we will get  
6 together in August. And my best wishes to everyone for your  
7 good -- continued good health in these strange times. And  
8 see you all soon.

9 (Whereupon these proceedings were concluded at  
10 12:08 PM)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing  
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: July 27, 2022